

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte R. DENNIS NESBITT

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Application No. 10/003,770

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MAILED

MAY 11 2006

U.S. PATENT AND TRADEMARK OFFICE  
BOARD OF PATENT APPEALS  
AND INTERFERENCES

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

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This application was electronically received at the Board of Patent Appeals and Interferences on April 18, 2006. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below.

A review of the file indicates that on November 15, 2004, appellant filed an Appeal Brief which is not in compliance with the new rules set forth in 37 CFR § 41.37(c) effective September 13, 2004. The following sections are missing from the Appeal Brief:

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- (1) "Evidence appendix" as set forth in 37 CFR § 41.37(a)(1)(ix"); and
- (2) "Related proceedings appendix" as set forth in 37 CFR § 41.37(c)(1)(x).

It is required that a substitute Appeal Brief be submitted that is in compliance with 37 CFR § 41.37(c).

A further review of the Examiner's Answer mailed January 25, 2005, is found to be non-compliant with the headings as set forth in the new rules under 37 CFR § 41.39(1)(a) effective September 13, 2004. It is required that a new Examiner's Answer be provided in compliance with the new rules. For more information on the Board's new rules, please see the web page entitled "More Information on the Rules of Practice Before the BPAI," Final Rule at:

<http://www.uspto.gov/web/offices/dcom/bpai/fr2004/moreinfo.html>

Accordingly, it is

**ORDERED** that the application is returned to the examiner to:

- 1) to vacate the examiner's answer mailed January 25, 2005, and submit a new examiner's Answer as required by the new rules;
- 2) to hold the Appeal Brief of November 15, 2004 defective and submit a new brief as required by the new rules;

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- 3) to have a complete copies of the new examiner's Answer and Brief scanned into the record; and
- 4) for such further action as may be appropriate.

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